## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate both the guide assembly and the arms (Figure 2, Page 13, lines 1 and 27). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Mazzocchi et al. (US 2004/0167543), hereafter Mazzocchi.

Regarding claim 1, Mazzocchi discloses a drill guide assembly, 100, comprising a drill guide sleeve, 110 and 304, a carriage, 105, and a platform, 300. Said guide sleeve is rotatably mounted on the carriage via a ball, 304, that when the desired position is reached at least one angle-adjustment screw, 214, is used to secure that position (Figure 2 and 3, [0037-0038]). Said platform is fasten to the bone via 3 feet (Figure 3), is attached to the carriage by snap-fitting side blocks, 202, and translates within the plane of the platform. Said translation is adjusted by a translation-adjustment screw, 204.

Regarding claim 2-8, the carriage is capable of including only one adjustment screw, 214, ([0038]) or up to four adjustment screws, 216A-D, and the platform is capable of including only one adjustment screw, 204 or up to five adjustment screws, 208A-B and 210A-B (Figure 2 [0035-0036]). The axis in which the guide sleeve rotates and the axis of the translation-adjustment screw are orthogonal relative to each other and the axis of the adjustment screws, 214 and 204, are orthogonal relative to screws, 208A-B and 210A-B.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzocchi et al. (US 2004/0167543), hereafter Mazzocchi, in view of Challis (US 4,865,496).

Regarding claim 1, please see above.

Regarding claims 9-14, Mazzocchi discloses the capability of the adjustment screws tightened to inhibit motion in one direction (i.e. angle/translational), while allowing movement in another direction (i.e. angle/translational) ([0040]), but fails to disclose a nut connected to the carriage wherein the adjustment screws extend through. However, Challis teaches the use of nuts, 18, as securing mechanisms located within openings, 16, in the carriages, 12 (Figure 1 & 4, Column 3, line 55-Column 4, line 25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the nut, as taught by Challis, to the drill guide assembly as per Mazzocchi, in order to provide a clamping mechanism, in which a more secure fixation is achieved between the guide sleeve and the carriage, as well as the carriage and the platform.

Claims 1, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazzocchi et al. (US 2004/0167543), hereafter Mazzocchi, in view of Challis (US 4,865,496), and further in view of Marchione et al. (US 2002/0193801), hereafter Marchione.

Regarding claim 1, please refer above.

Regarding claims 15-18, Mazzocchi fails to disclose an alignment stylus for aligning the guide sleeve relative to anatomical features of the bone. However, Marchione teaches a stylus, 13, connected to a limb, 58, which connects to the guide sleeve, 14, and is used to sense anatomical features such as the femur neck (Figure 8, [0028-0029]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teaching of the stylus, as taught by Marchione, to the drill guide assembly as per Mazzocchi, in order to provide the desired distribution of the cross-section of the bone to be drilled, for proper placement of the prosthesis ([0028]).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA GOLOB whose telephone number is (571)270-7083. The examiner can normally be reached on M-F 7:30am-4:30 pm with the exception of every 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Barrett can be reached on (571)272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MELISSA GOLOB/
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art Unit 3775